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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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10 Shai Segui,

11 Plaintiff,

12 v.

13 Stephanie Stromfors; Diana Vigil; Randy
14 Rand; Julie Verner; Yvonne Parnell; Donna
Moniz; and Building Family Bridges,

15 Defendants.

16 No. CV-24-01171-PHX-DGC

ORDER

17 Plaintiff Shai Segui asserts civil rights and related claims against Defendants in the
18 operative first amended complaint (“FAC”). Doc. 24-1. Pursuant to Federal Rule of Civil
19 Procedure 15, Plaintiff moves for leave to file a second amended complaint (“SAC”).
20 Doc. 55. Attached to the motion is a redlined version of SAC reflecting the proposed
21 amendments. Doc. 55-1. For reasons stated below, the Court will grant the motion to
22 amend, deny as moot the pending motions to dismiss the FAC (Docs. 38, 40), and grant
23 Defendants permission to refile updated motions to dismiss the SAC (*see* Docs. 59, 60).

24 Rule 15 provides that the Court “should freely give leave [to amend] when justice
25 so requires.” Fed. R. Civ. P. 15(a)(2). The policy favoring leave to amend must not only
26 be heeded, *Foman v. Davis*, 371 U.S. 178, 182 (1962), it must be applied with “extreme
27 liberality,” *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001).
28 Leave to amend may be denied on the basis of undue delay or bad faith on the part of the

1 moving party, undue prejudice to the opposing party, or futility of the proposed
 2 amendment. *Foman*, 371 U.S. at 182. “The party opposing amendment bears the burden
 3 of establishing futility or one of the other permissible reasons for denying a motion to
 4 amend.” *World Nutrition Inc. v. Advanced Enzymes USA*, No. CV-19-00265-PHX-GMS,
 5 2021 WL 632684, at *1 (D. Ariz. Feb. 18, 2021) (citation omitted).

6 Plaintiff seeks leave to amend to remove the claim against Dr. Raymond Branton,
 7 which has been voluntarily dismissed, and to add a civil rights claim against Defendants
 8 Randy Rand and Julie Verner. Doc. 55 at 1. No Defendant opposes amendment. Given
 9 the liberal standard for amendments under Rule 15, the Court will grant Plaintiff leave to
 10 file the proposed SAC. *See* Doc. 55-1. Plaintiff shall file the SAC, as a stand-alone
 11 document with no accompanying notice of filing (*cf.* Doc. 24, 24-1), by **October 18, 2024**.

12 “It is well-established in [this] circuit that an ‘amended complaint supersedes the
 13 [operative complaint], the latter being treated thereafter as non-existent.’” *Ramirez v. Cnty.*
 14 *of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015) (citation omitted); *see also* Docs.
 15 22 at 2, 59 at 2 (same). Because the motions to dismiss filed by Defendants Diana Vigil
 16 and Stephanie Stromfors target the FAC, which will no longer be in effect once the SAC
 17 is filed, the motions will be denied as moot. *See id.*

18 Defendants Vigil and Stromfors request permission to refile their motions to dismiss
 19 to apply to the SAC. Docs. 59 at 1-2, 60 at 2. The Court will grant the request, but will
 20 require that the refiled motions be updated with citations to the operative SAC and not the
 21 ineffective FAC. Defendants Vigil and Stromfors shall file the updated motions to dismiss
 22 the SAC by **October 25, 2024**. Plaintiff’s responses are due by **November 1, 2024**, and
 23 any replies are due by **November 8, 2024**.¹

24 **IT IS ORDERED:**

25 1. Plaintiff’s motion for leave to file an SAC (Doc. 55) is **granted**.

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27 ¹ The Court sets an expedited schedule given that Plaintiff’s allegations and claims
 28 against Vigil and Stromfors have not changed and the briefing only needs to be updated
 with appropriate citations to the SAC and the document numbers for new briefing.

1 2. Plaintiff shall file the SAC, as a stand-alone document with no accompanying
2 notice of filing, by **October 18, 2024**. Defendants Vigil and Stromfors shall file updated
3 motions to dismiss the SAC by **October 25, 2024**. Plaintiff's responses are due by
4 **November 1, 2024**, and any replies are due by **November 8, 2024**.

5 3. The motions to dismiss the FAC (Docs. 38, 40) are **denied** as moot.

6 Dated this 15th day of October, 2024.

David G. Campbell

David G. Campbell
Senior United States District Judge